

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

JAN 27 2012

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

| | | |
|-----------------------|---|----------------------------|
| THE STATE OF ARIZONA, |) | 2 CA-CR 2011-0201 |
| |) | DEPARTMENT B |
| Appellee, |) | |
| |) | <u>MEMORANDUM DECISION</u> |
| v. |) | Not for Publication |
| |) | Rule 111, Rules of |
| KIRKLAND LEON, |) | the Supreme Court |
| |) | |
| Appellant. |) | |
| _____ |) | |

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20094679001

Honorable Michael O. Miller, Judge

AFFIRMED AS CORRECTED

Robert J. Hirsh, Pima County Public Defender
By David J. Euchner

Tucson
Attorneys for Appellant

K E L L Y, Judge.

¶1 A grand jury charged appellant Kirkland Leon with four domestic violence offenses,¹ which were aggravated based on his previous domestic violence convictions, and one count of kidnapping, also a domestic violence offense. Following a jury trial,

¹The offenses were alleged to have occurred on different occasions but were consolidated for trial, and Leon was sentenced pursuant to former A.R.S. § 13-702.02. *See* 1999 Ariz. Sess. Laws, ch. 261, § 10.

Leon was convicted of three of the aggravated domestic violence offenses and kidnapping, but was acquitted of the fourth domestic violence offense. The trial court suspended sentence and imposed probation on one of the counts and sentenced Leon to concurrent prison terms, the longest of which is five years, on the other counts. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), avowing he has reviewed the entire record and found no meritorious issue to raise on appeal. In compliance with *State v. Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d 89, 97 (App. 1999), counsel also has provided “a detailed factual and procedural history of the case with citations to the record . . . [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” Leon has not filed a supplemental brief. We affirm as corrected.

¶2 Viewed in the light most favorable to upholding the jury’s verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that, in December 2007, Leon was served with an order of protection forbidding contact with the victim, with whom he shared a child. In March 2008, Leon threatened the victim by banging on the locked door to her apartment after they had argued. Later that month, Leon pushed the victim and struck her in the face. The following month, during another argument, Leon knocked the victim to the ground and forced her into the car he was driving; he then hit her in the face and dragged her out of the car. We conclude substantial evidence supported the findings of all elements necessary for Leon’s convictions, *see* A.R.S. §§ 13-1202, 13-1203, 13-1304, 13-1602, 13-2810, 13-3601, 13-3601.01, 13-3601.02, and the imposition of probation and his sentences are within the authorized range.

¶3 During our examination of the record, however, we noted that the sentencing minute entry order states that the events leading up to count three occurred on

April 18, 2008. But, based on the indictment, and the transcripts from the trial and the sentencing hearing, it appears the correct date is April 15, 2008; Leon was acquitted of the charge from April 18, 2008. In addition, the sentencing minute entry order states “defendant shall be given credit for ZERO (74) DAYS time served” on count four. In view of the transcript from the sentencing hearing, this appears to be a typographical error. We therefore correct the sentencing minute entry order to reflect that count three occurred on April 15, 2008, and that Leon is entitled to seventy-four days credit on count four.

¶4 In our examination of the record pursuant to *Anders*, we have found no reversible error and no arguable issue warranting further appellate review. *See Anders*, 386 U.S. at 744. Accordingly, Leon’s convictions, the imposition of probation, and the sentences, as corrected, are affirmed.

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge